UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,323	07/07/2003	Michael Dieter Kollmann	CA920030064US1	9355

28342 7590 10/06/2006		EXAMINER
SAMUEL A. KASSATLY LAW OFFICE 20690 VIEW OAKS WAY SAN JOSE, CA 95120		ROMANO, JOHN J

ART UNIT	PAPER NUMBER
2192	

DATE MAILED: 10/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *July 7th, 2003 and November 10th, 2003.*

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle,* 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-25* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *07 July 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☒ Certified copies of the priority documents have been received in Application No. <u>2,433,750.</u>

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *10/21/2003 and 11/10/2003.*

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____ .

DETAILED ACTION

Claims **1-25** are pending in this action.

Information Disclosure Statement

1.   The Information Disclosure Statements filed on October 21st, 2003 and

November 10th, 2003 have been considered.

Claim Objections

2.   Claim **11** is objected to under 37 CFR 1.75(c), as being of improper dependent

form for failing to further limit the subject matter of a previous claim. Applicant is

required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper

dependent form, or rewrite the claim(s) in independent form. Claim **11** is verbatim to

claim **10**.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

3.   Claims **1-25** are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

It is unclear what the limitation "first level" is meant to mean (relative to what level). The term "first level" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. For example, the "first level" seems to mean "trace level" or state, relating to the rate of data collection, in the first instance (line 3); however, then it appears to mean the level of the "trace data" in the second instance (line 6), third instance (line 8) and fourth instance (line 10). For the sake of compact prosecution the Examiner is interpreting "first level" on line 3, to mean a starting point for tracing. Appropriate correction is required.

Accordingly, dependent claims **2-8, 10-17** and **19-25** are rejected for depending on a rejected base claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4.   Claims **1, 4, 5, 9, 13, 14, 18, 21** and **22** are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Ullmann et al., US 2002/0198983 (hereinafter **Ullmann**).

In regard to claim **1**, **Ullmann** discloses:

- *"A method for automatically collecting trace detail data of a program activity in a computer system, comprising: tracing the program activity at a first level to produce the trace detail data..."* (E.g., see Figure 2 & page 2, paragraph [0021]), wherein the log manager 220 is addpted to provide multiple levels of logging.

- *"...writing the trace detail data to a trace buffer ..."* (E.g., see Figure 2 & page 2, paragraph [0021]), wherein the trace records are recorded to a configured destination which must inherently be a segment of memory in order to be effective.

- *"...if the first level exceeds a first predetermined value continuing to trace the program activity at the first level, otherwise writing the trace buffer to a log..."* (E.g., see Figure 3 & page 2, paragraph [0023]), wherein logging of trace data in response to an error is disclosed.

- *"...if the first level is equal to a second predetermined value, writing the trace buffer to a log..."* (E.g., see Figure 7 & page 4, paragraph [0035]), wherein logging is initiated based on a exception (trigger or trap).

- *"...if the first level does not exceed a third predetermined value, continue to trace at the first level, otherwise writing the trace buffer to a log."* (E.g., see Figure 7 & page 4, paragraph [0035]), wherein the trace history or dump stack is logged.

In regard to claim **4**, the rejections of base claim **3** are incorporated.

Furthermore, **Ullmann** discloses:

- *"...the first predetermined value is a log level value."* (E.g., see Figure 3 & page 2, paragraph [0023]), wherein logging of trace data in response to an error (level) is disclosed.

In regard to claim **5**, the rejections of base claim **4** are incorporated.

Furthermore, **Ullmann** discloses:

- *"...the second predetermined value is a trap value."* (E.g., see Figure 7 & page 4, paragraph [0035]), wherein logging is initiated based on a exception (trigger or trap).

In regard to claims **9, 13** and **14**, this is a system version of the claimed method discussed above, in claims **1**, **4** and **5,** wherein all claimed limitations have also been addressed and/or cited as set forth above. For example, see **Ullmann**, (E.g., see Figure 1 & related text), wherein a computer system is disclosed.

In regard to claims **18, 21** and **22**, this is a computer readable medium version of the claimed method discussed above, in claims **1**, **4** and **5,** wherein all claimed limitations have also been addressed and/or cited as set forth above. For example, see **Ullmann**, storage device (Figure 2, element 238).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5.   Claims **2**, **6-8**, **10**, **11**, **15-17**, **19** and **23-25** are rejected under 35 U.S.C. 103(a)

as being unpatentable over **Ullmann**.

In regard to claim **2**, the rejections of base claim **1** are incorporated. But,

Ullmann does not expressly discloses "...*clearing the trace buffer.*" However, it would

have been obvious to one of ordinary skill in the art, at the time the invention was made,

to clear the trace buffer after storing it for the old and well known benefits of not

duplicating data unnecessarily.

In regard to claim **6**, the rejections of base claim **5** are incorporated. But,

Ullmann does not expressly discloses "...*the third predetermined value is a history*

trace level." However, **Ullmann** does disclose a history trace (dump stack), (E.g., see

Figure 7 & page 4, paragraph [0035]). It would have been obvious to one of ordinary

skill in the art, at the time the invention was made, to log the "history trace level" in the

event of an error in order to reconstruct the problem to achieve the benefits old and well

known in the art of program debugging by reconstructing the problem.

In regard to claim **7**, the rejections of base claim **6** are incorporated. But,

Ullmann does not expressly disclose "...*the first value, the second value, and the third*

value are selectable." However, it would have been obvious to one of ordinary skill in

the art, at the time the invention was made, to make predetermined values selectable.

The motivation to do so was provided by **Ullmann** (Figure 2 & page 2, paragraph

[0023]), where the system can be adapted to respond to different levels. Therefore, it

would have been obvious to one of ordinary skill in the art to configure the levels to

direct the logging as disclosed by **Ullmann**.

In regard to claim **8**, the rejections of base claim **7** are incorporated. But,

Ullmann does not expressly disclose "...*the log and the trace buffer reside on different*

computer systems that communicate over a network." However, it would have been

obvious to one of ordinary skill in the art, at the time the invention was made, to

implement the separate components on separate or remote machines. The motivation

to do so was provided by **Ullmann** (Figure 2 & page 2, paragraph [0021]), where the

remote subsystems are disclosed. Therefore, it would have been obvious to one of

ordinary skill in the art to implement different components remotely over a network.

In regard to claims **10** and **15-17**, this is a system version of the claimed method

discussed above, in claims **2** and **6-8**, wherein all claimed limitations have also been

addressed and/or cited as set forth above. For example, see **Ullmann**, (E.g., see

Figure 1 & related text), wherein a computer system is disclosed.

In regard to claim **11**, see claim **2**.

In regard to claims **19** and **23-25**, this is a computer readable medium version of the

claimed method discussed above, in claims **2** and **6-8**, wherein all claimed limitations

have also been addressed and/or cited as set forth above. For example, see **Ullmann**,

storage device (Figure 2).

6.   Claims **3, 12** and **20** are rejected under 35 U.S.C. 103(a) as being unpatentable

over **Ullmann** in view of Chen et al., US 5,642,478 (hereinafter **Chen**).

In regard to claim **3**, the rejections of base claim **2** are incorporated. But Ullmann

does not expressly disclose "a circular buffer that comprises a configurable number of

trace records containing trace detail data. However, **Chen** discloses:

-   *"...a circular buffer that comprises a configurable number of trace*

records containing the trace detail data." (E.g., see Column 4, lines 1-

16), wherein a variable length circular buffer containing trace detail is

disclosed.

Ullmann and **Chen**, are analogous art because they are both concerned with the

same field of endeavor, namely, logging trace data. Therefore, at the time the invention

was made, it would have been obvious to a person of ordinary skill in the art to combine

Chen's circular buffer with **Ullmann'** tracing method. The suggestion to combine was

disclosed by **Chen's** disclosure of ensuring storage of particular data (E.g., see Column

4, lines 8-16).

In regard to claim **12**, this is a system version of the claimed method discussed

above, in claim **3**, wherein all claimed limitations have also been addressed and/or cited

as set forth above. For example, see **Ullmann**, (E.g., see Figure 1 & related text),

wherein a computer system is disclosed.

In regard to claim **20**, this is a computer readable medium version of the claimed

method discussed above, in claim **3**, wherein all claimed limitations have also been

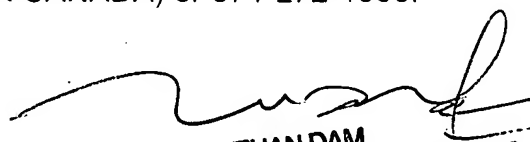addressed and/or cited as set forth above. For example, see **Ullmann**, storage device

(Figure 2).

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to John J. Romano whose telephone number is (571) 272-

3872. The examiner can normally be reached on 8-5:30, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Tuan Q. Dam can be reached on (571) 272-3695. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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USPTO Customer Service Representative or access to the automated information

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JJR

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SUPERVISORY PATENT EXAMINER